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INFORMATION

For the Representatives of the deceast JOHN DICKIE, Writer to the Signet, Defenders;

Sp. Grange AGAINST

49

27 Nov
1760

Henry, Ann, and David Lizars, Children of the deceast David Lizars Tenant at Damhead, and Isobel Anderson Relict of the said David Lizars, their Curatrix, and May and Margaret Lizars, also Children of the said David Lizars, and Adam Friar Husband to the said Margaret, Pursuers.

JOHN DICKIE, Writer to the Signet, was, upon the 25th of Feb. 1744, appointed Factor *loco tutoris* by your Lordships, for managing the Estate and Effects of the Children of the said David Lizars.

Mr. Dickie, immediately after being appointed Factor, brought an Action before the Sheriff of *Edinburgh*, against Mrs. Lizars the Widow, who had formerly taken upon her the management of her Childrens Affairs, to account for her Intromissions, and to deliver up to him the several Grounds of Debt; and this Process was not brought to a Conclusion till some time in the Year 1746.

Amongst the Debts due to Mr. Lizars, and outstanding at the time of his Death, there was a Bond granted to him, of this date, by Archibald Punton, Thomas Hay, and George Begbie, all Baxters in *Edinburgh*, jointly and severally, for the principal Sum of 2000 Merks Scots: This Bond, as well as the other Grounds of Debt, was in the custody of the Widow, and Mr. Dickie did not recover it till the Issue of the foresaid Process in the 1746.

Jan. 19.
1743.

Thomas Hay one of the Co-obligants, about the end of the Year 1747, gave Way all of a sudden, without having been previously suspected: and a Meeting of his Creditors having been called, it was agreed by all of them, as the most prudent and most expedient Measure for all concerned, not

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to go on in Diligence, whereby the Subject would be in a great measure exhausted; but to take joint Measures in disposing of his Effects for the Behoof of the whole Creditors. The Effects have since been accordingly all disposed off, and converted into Money; and by the Scheme of Division, which was made out about *Candlemas* 1754, the *Lizars's* share amounts to 47*l.* 8*s.* 7*d.* which they can draw when they please. *Begbie*, another of the Co-obligants, was likewise a Creditor to *Hay*, and his share, as appears likewise from the Scheme of Division, is 21*l.* 15*s.* 11*d.* This Sum *Begbie* agreed to leave in the Hands of *Hay's* Trustees, to be drawn by the *Lizars*, towards Payment *pro tanto* of the fore said Bond, in which he stood bound to them. This Sum has accordingly been secured to them by an Arrestment in the Hands of *Hay's* Trustees, and which the *Lizars* may likewise draw when they think proper.

Archibald Punton, another of the Co-obligants, broke in the 1748 or 1749, when *Gavin Waugh Baxter* in *Edinburgh*, one of his Creditors, who, from his Connection with *Punton*, had an Opportunity of being sooner acquainted with his Situation, pointed and arrested his Effects, to the Extent of about 24*l.* *Sterling*, which were all he was then possess of, that could be discovered: So that neither Mr. *Dickie*, nor any of the other Creditors, could recover one Shilling of their Debts.

Notwithstanding that two of the Co-obligants had given way, yet as *Begbie* the third Co-obligant continued in exceeding good Credit, and was reputed to be in very good Circumstances; and as it was then generally believed, that the greatest part of the Debt would be drawn out of *Hay's* Subjects, although it has turned out otherways; and as the whole Debt was no great Sum, being only 2000 Merks of Principal; so it occurred to Mr. *Dickie*, that the Money was still very well secured, notwithstanding of these two Bankruptcies: However *Begbie* all of a sudden likewise gave way in



in the Year 1754, nor were his Circumstances suspected, till he himself called a meeting of his Creditors, when it was agreed by them to take joint Measures: His Effects have accordingly been disposed of by Trustees named by the Creditors, a Scheme of Division is made out, and the *Lizars* may draw their Share when they think proper.

Mr. *Dickie* having died in the 1755, a Process was thereupon brought at the Instance of Mr. *Lizars's* Children and their Curator, against Mr. *Dickie's* Representatives, to account to them for his Intromissions with their Effects.

This Process having come in Course before the Lord *Prestongrange* Ordinary; his Lordship ordained the Defenders to produce an Accompt of Charge and Discharge of the said *John Dickie's* Intromissions with the Pursuers Effects, and Vouchers of the same: And an Accompt having accordingly been produced, sundry Objections were made thereto on the part of the Pursuers; and Answers were made to these Objections on the part of the Defenders. In the foresaid Accompt, the Defenders took Credit for the Sums in the foresaid Bond, due by *Punton, Begbie, and Hay*. It was objected on the part of the Pursuers, that the Defenders could not be allowed to take Credit for any Part of the Sums in that Bond, as it did not appear that Mr. *Dickie* had done any Diligence for Recovery thereof, so that the Loss must fall upon him: And the Lord Ordinary, upon advising the Objections and Answers, pronounced an Interlocutor of this Date, which, in as far as relates to the Point in Issue, is in the following Words.

July 27.
1757.

‘Repells the third Objection,’ viz. (That the Debt was lost by Mr. *Dickie's* not doing Diligence,) ‘unless the Pursuers alledge and instruct, that the other Creditors of *Archibald Punton, Thomas Hay, and George Begbie* recovered Payment, or obtained Preference upon the Debtors Effects by using Diligence.’

The

August 11.
1757.

The Pursuers preferred a Petition to your Lordships, complaining, *inter alia*, of that Part of the Interlocutor above-recited; and upon advising the Petition, your Lordships of this Date, remitted the same to the Lord Ordinary to do therein as he should see Cause.

The Pursuers thereafter gave in a Condescendence of certain Facts to the Lord Ordinary, of which they craved a Proof, and which they contended would, if proven, subject the Defenders in Payment of the foresaid Bond, granted by *Hay, Punton, and Begbie*. The Condescendence is as follows: 'That at the Date of the Bond granted by *Messrs. Hay, Punton and Begbie*, all the three Obligants were Persons 'in good Credit, and continued to be so till some time in 'the Year 1746; when *Thomas Hay*, one of them, failed 'in his Circumstances. 2do. That a considerable Time after 'Hay broke, *Archibald Punton*, another of the Obligants, 'continued to carry on Trade in the same Way as before; 'and his Circumstances were not suspected to be in Disorder till some time in the Year 1748, that he stopt Payment; and that, even after his stopping Payment, certain 'of his Creditors did, by means of timely Diligence, operate Payment of part of their Debts, and obtained Security for the Remainder thereof. 3tio, That notwithstanding the Bankruptcy of *Hay and Punton*, *George Begbie*, 'the other Obligant, continued in good Circumstances and 'undoubted Credit, down to the Year 1754: That during 'all this Time, he had several Dealings with many different People, and traded to a considerable Extent, and 'made his Payments regularly; and no Person with whom 'he used to deal, scrupled to give him Credit to any Extent; or even in the least suspected his Circumstances.' And the Lord Ordinary, of this Date, pronounced the following Interlocutor: 'Before Answer, allows the Pursuers to prove in habile Terms the Facts contained in 'their Condescendence; and allows the Defenders a conjunct

Decem. 23.
1757.

‘ junct Probation, if they think fit to use it: And grants
 ‘ Warrant for Letters of incident Diligence at both Parties
 ‘ Instance for the above Purpose.” And a Proof having
 been accordingly led, a Copy of which is hereto subjoin-
 ed, the Lord Ordinary, upon advising a Minute of
 Debate upon the Import thereof, took the Point to Re-
 port, and ordained both Parties to give in Informations to
 your Lordships; in Obedience to which, this is humbly
 offered on the Part of the Defenders.

In the first Place it was contended for the Pursuers,
 That the Defenders ought to be subjected in Payment of
 the foresaid Debt, as Mr. *Dickie* had neglected to do Dili-
 gence against the Co-obligants for Recovery thereof; and
 particularly, that it was Mr. *Dickie*’s Duty, upon *Hay* and
Puntou’s failing in their Circumstances, to have used all Man-
 ner of Diligence in order to recover Payment out of their
 Effects, which it does not appear he had done.

To this it is answered, *imo*, That with respect to Mr.
Hay, one of the Co-obligants, the Fact has never been
 contraverted, That, upon his giving Way, a Meeting of his
 Creditors was called, when it occurred to them, that it
 would be hurtful and prejudicial to their Interest to use
 legal Diligence, the natural Tendency of which would be
 to heap up Expences, and thereby in a great Measure ex-
 haust the Subject; and so it was concerted amongst them,
 as the most prudent and expedient Measure for all concern-
 ed, to take joint Measures in disposing of his Effects for
 Behoof of the whole Creditors. This Scheme was accord-
 ingly carried into Execution; the Effects were all convert-
 ed into Money, by Trustees appointed for that Effect, and
 the Sums being still *in medio*, the Pursuers may draw their
 Share when they think proper, and for which Purpose they
 have procured a Warrant from the Lord Ordinary. And
 this being the Case, Mr. *Dickie* was certainly not in the
 least culpable, for not having gone on to attach *Hay*’s Sub-
 ject

ject by legal Diligence: No Advantage could have been thereby gained to the Pursuers; the other Creditors were as much upon the Watch, as he could be; and if he had taken separate Measures, the natural Consequence of it must have been to make the other Creditors take the like Course; and as the Creditors were all upon an equal Footing in that Respect, it is not to be supposed that any one Creditor would have the Advantage of the rest: And as the using of legal Diligence, must necessarily have the Effect of exhausting the Subject by the Expence thereof, it was certainly a most prudent and expedient Step in Mr. *Dickie*, to agree to the Measure proposed by the other Creditors, of disposing of the Effects of their Debtor to the best Advantage, for the Behoof of all concerned.

And with respect to *Punton*, another of the Co-obligants, the Fact is, That he having suddenly given Way, *Gavin Waugh*, who, from his Connection with him (being a Brother in Trade, and concerned with him in several Transactions), had an Opportunity to be more early acquainted with his Situation, went on to point and arrest all his Effects that could be discovered, which amounted only to about the Sum of 24 *l. Sterling*; so that, thereafter, nothing remained for the other Creditors; and it would therefore have been idle for Mr. *Dickie*, beyond Measure, to have thrown away the Money of his Pupils, in doing of Diligence, which could have answered no earthly Purpose: And that this was the Fact, must appear from the following Consideration, That the Pursuers have not pretended to point out any Person, except the said *Gavin Waugh*, that recovered one Six-pence of his Debt by doing Diligence against *Punton's* Person or Effects. The Pursuers Plea on this Point is, That, if Mr. *Dickie* had done Diligence against *Punton's* Person or Effects, he might have recovered Payment of the Debt, in whole or in Part. It is therefore incumbent on them to show, That the other Creditors, by using of Diligence

Diligence, had recovered their Payment. It is incumbent upon the Pursuers to have pointed out some Subject that *Punton* was posselt of, which Mr. *Dickie* could have affected by doing of Diligence, otherways it certainly would have been a most imprudent and improper Step in him to have expended his Pupils Money in doing of legal Diligence, when nothing could be got by it.

But, it was chiefly insisted on for the Pursuers, That *Begbie*, the third Co-obligant, did, after the Bankruptcy of the other two, continue to be in very good Credit, down to the Year 1754, when he broke: So that Mr. *Dickie* could have had no Difficulty in recovering from him the Debt due by the foresaid Bond: That it was Mr. *Dickie's* Duty to have recovered the Money from him, after the other two Co-obligants had become Bankrupt; and not to have allowed it to remain upon his single Security: And as Mr. *Dickie* neither recovered the Money, nor took no Step for that Effect, the Loss arising from *Begbie's* After-insolvency, must fall upon Mr. *Dickie's* Representatives.

It was in order to prove the above Allegation, that the Proof was led by the Pursuers. And that the Case may appear in its true Light, the Defenders shall here state the Proof, in so far as it regards that Point. *James Logan*, the first Witness, depones, ' That he was in use to deal with ' *George Begbie*, Baxter in *Edinburgh*, for a Dozen of Years ' and more, before the Time when he, Mr. *Begbie*, broke: ' That the Deponent sold to Mr. *Begbie*, for most of these ' Years, the whole Crop of Wheat which grew upon his ' Farm, which was from 60 to 70 Bolls, sometimes more, ' sometimes less; and that Mr. *Begbie* made regular Pay- ' ment to the Deponent of the Price of his Wheat, as it ' became due: That the Deponent always believed Mr. *Beg-* ' *bie* to be in good Circumstances, and never entertained a- ' ny Suspicion of his Credit, nor heard it called in questi- ' on by any other Person; and that Mr. *Begbie* got the De- ' ponent's

' Deponent's Wheat the same Year that he broke, and paid the
 ' Price to the Deponent.' *Gavin Waugh* depones, ' That,
 ' at the Time of the Deponent's doing Diligence against
 ' *Archibald Punton*, *George Begbie* continued carrying on his
 ' Business, and in unsuspected Circumstances.' *Walter For-*
rest depones, ' That he is acquainted with *George Begbie*,
 ' and has had Occasion to have had frequent Dealings with
 ' him, in the Way of selling of Wheat, when he would
 ' have trusted him, from 10 *l.* to 100 *l.* Value; and that
 ' this happened from *November 1752*, downward, till *George*
 ' *Begbie* called a Meeting of his Creditors: That, prior to
 ' this Time, the Deponent looked upon him as a Man of
 ' good Circumstances, and had no Scruple of trusting
 ' him, as above.' *Alexander Elliot* depones, ' That he
 ' knows *George Begbie*; and has so for upwards of twenty
 ' Years; during which Period, down to about the Year
 ' 1754, when *Begbie's* affairs went into Disorder, the De-
 ' ponent had Occasion frequently to sell the said *Begbie*
 ' considerable Quantities of Wheat, to the Extent of some
 ' hundred Pounds *Sterling* at one Time: That *Begbie*, before
 ' his Affairs going into Disorder, was pretty regular in
 ' answering his Credit; and the Deponent always looked
 ' upon him, till then, as sufficient, and in easy Circum-
 ' stances.'

The Proof itself is hereto subjoined. The Defenders
 have taken down the Substance of it, as far as it relates
 to the Point in Issue; and they, with Submission, apprehend,
 That the Proof which the Pursuers have thought proper to
 adduce, does afford a sufficient Defence against their Claim,
 in as far as it relates to the Bond in question. It appears from
 the Proof, That, after *Punton* and *Hay*, two of the Obligants in
 the Bond, gave Way, *Begbie*, the third Obligant, continued in
 good Credit, and was trusted to the Extent of some Hundred
 Pounds *Sterling* at a Time: That he continued in good and easy
 Circumstances, and

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was not in the least suspected by any Person till he broke ; which happened about the Year 1754. The first Intimation of which appears to have been given by himself, by calling a Meeting of his Creditors, who thereupon agreed to take joint Measures, and who accordingly appointed Trustees for disposing of his Effects, and converting the same into Money, for Behoof of all concerned, and who have accordingly executed the Trust committed to them : A Dividend has been made among the Creditors, and the Pursuers Share is ready to be paid when called for, and they have accordingly obtained the Lord Ordinary's Warrant for uplifting it.

In these Circumstances, the Defenders, with Submission, apprehend, That Mr. *Dickie* was not in the least blameable, to allow the Money to remain upon Mr. *Begbie's* Security. The Sum itself was originally no more than 2000 Merks of Principal. The Pursuers either have already, or may, when they please, receive out of the Funds of *Hay*, above 69 l. *Sterling*: And when *Hay* gave Way, it was generally believed, that the greatest Part of the Debt would be recovered out of his Funds ; and the contrary was not known, till nigh about the Time of *Begbie's* Bankruptcy, when Mr. *Begbie* was reputed to be in easy and unsuspected Circumstances. Could Mr. *Dickie* be blamed, for allowing the Balance of that Sum, which was but inconsiderable, and was generally believed to be less than it afterwards came out to be, to remain upon the Security of *Begbie* alone ? As it is humbly thought, That the most prudent, and cautious Men would not have scrupled to have lent a greater Sum to a Man of the same Circumstances and Credit, that *Begbie* was reputed to be in ; so Mr. *Dickie* could not be accused of Negligence, in not uplifting the Money out of his Hands : On the contrary, it was proper, and agreeable to the Trust reposed in him, to allow the Money to remain in *Begbie's* Hands, which every Person

acquainted with him, would have thought very well secured: Nor can there be any ground of Complaint against Mr. *Dickie*, That he did not use Diligence against *Begbie's* Person or Effects, upon his failing in his Circumstances: It appears, That he failed all at once, without being previously suspected: That he gave the first Notification thereof, by calling a Meeting of his Creditors; at which Time, Mr. *Dickie*, and the other Creditors, agreed not to go on in Diligence, but to take joint Measures in disposing of his Effects, as being judged the most beneficial for all concerned.

It was said for the Pursuers, That as Mr. *Lizars*, the original Creditor in the Bond, had thought the joint Obligation of all the three necessary to be a proper Security for his Money; that, therefore, it was wrong in Mr. *Dickie*, after two of the Co-obligants had become insolvent, to allow the Money to remain upon the Security of *Begbie* alone.

The Defenders apprehend, That because the Money was originally lent upon the Credit of three, it will not from thence follow, That the Money would not have been well secured upon the Credit of one of them: The Defenders see no Foundation for any such Rule to be observed by Tutors or others, in the Management of their Pupil's Affairs; the general Rule is, That they are to take every prudent and proper Measure, *rem pupilli salvam fore*: And it is humbly submitted to your Lordships, if even the most prudent, and cautious Man would not, from the reputed Circumstances of *Begbie*, have thought the Balance that remained of the foresaid Bond, very well secured in *Begbie's* Hands.

It was likewise insisted on for the Pursuers, that, by your Lordships Act of Sederunt 1730, it was ordained, That Factors appointed on the Estates of Pupils, not having Tutors, shall be liable for the Annualrents of all Rents and Profits whatsoever, which they shall recover or by Diligence

gence might have recovered; and that from and after the Space of one Year after the said Rents and Profits became due, or might have been recovered; and until they make due Payment of the same: And from thence, it was contended, That it was incumbent upon Mr. *Dickie* to have regularly uplifted the Interest of the foresaid Bond, and to have stocked out the same upon Interest, from and after the Space of one Year after the said Interest respectively became due; and that as Mr. *Dickie* had failed to uplift any Part of the Interest from the Date of the said Bond, he was thereby guilty of so great a Degree of Negligence, as must subject him to the Payment of the whole Debt.

The Defenders, with Submission, apprehend that the foresaid Observation proceeds upon a Misconstruction of the Act of *Sederunt*. The Act of *Sederunt* was intended to make Factors, appointed by your Lordships in place of Tutors, liable to the same degree of Diligence, and to account in the same Manner as Tutors themselves; and therefore, that part of the Act of *Sederunt* above-mentioned, can only relate to the Rents and Profits of Lands; but not to the annualrents of Money: Tutors are no doubt bound to stock out the Rents of Lands upon Interest, within a certain Time after they become Due; but they are only obliged to stock out the Interest of Money, once during the Tutorship; and in Default thereof, they are only chargeable with Interest from the Expiry of their Office: And therefore, it is humbly submitted to your Lordships, if a Factor *loco tutoris* ought to be otherwise chargeable than a Tutor: There is nothing in the Act of *Sederunt* that necessarily imports such a Construction; and the Defenders will be forgiven to say, that if it were to bear the Construction contended for by the Pursuers, it would be morally impossible to comply with it; since, as Interest of Money is now paid, no Factor could pretend to stock it out in a Year after it became due; and were he to go on in

in Diligence against the Debtors of his Pupil, in order to accomplish it, the natural Consequence of it would be, to get the whole Money of his Pupil thrown into his Hands. But altho' the Act of *Sederunt* was to bear the Construction which the Pursuers are pleased to put upon it, yet the Consequences they draw from it would not follow: It might be a ground for subjecting Mr. *Dickie*, or his Representatives, for Payment of Interest, in the same Manner as if the bygone Annualrents had been stocked out; but it can never subject them to pay either the principal Sum or Interest, in as far as they have perished by the casual and unforeseen Bankruptcy of the Debitor.

In respect whereof, &c.

R O B. M' Q U E E N.

COPY DEPOSITIONS in the Cause,
HENRY LIZARS, &c.

AGAINST

JOHN DICKIE's Representatives.

January 18. 1758.

[Lord PRESTONGRANGE]

Compeared *James Logan* in *Collington*, aged sixty and upwards, married; who being solemnly sworn, purged of partial Counsel, examined, and interrogate, in Terms of the Lord Ordinary's Interlocutor, 23d December last, depones, That he was in use to deal with *George Begbie* Baxter in *Edinburgh* for a dozen of Years, and more, before the Time when he Mr. *Begbie* broke, which, to the best of the Deponent's Remembrance, was about three or four Years ago: That the Deponent sold to Mr. *Begbie* for most of these Years, the whole Crop of Wheat which grew upon his Farm, which was from sixty to seventy Bolls, sometimes more, sometimes less; and that Mr. *Begbie* made regular Payment to the Deponent of the Price of his Wheat, as it became due; and, that one Year he paid him Six-pence *per* Boll above the agreed Price, for Part of that Year's Crop: That the Deponent always believed Mr. *Begbie* to be in good Circumstances, and never entertained any Suspicions of his Credit, nor heard it called in question by any other Person: That Mr. *Begbie* got the Deponent's Wheat the same Year that he broke, and paid the Price to the Deponent; so that he lost nothing by his
D Bankruptcy:

Bankruptcy: *Causa Scientie patet.* And this is Truth, as he shall answer to God.

(signed) JAMES LOGAN.
W. GRANT.

Edinburgh, 23d January, 1758.

IN Presence of *Robert Leith*, acting by Commission from the Lord *Prestongrange*, Compeared *Gavin Waugh Baxter* in *Edinburgh*, Witness, cited for the Pursuer, aged forty Years; married Man; who being solemnly sworn, purged of Malice, partial Counsel, examined, and interrogate, depones, That he knew, and was personally acquainted with *Archibald Punton*, *Thomas Hay*, and *George Begbie*, Baxters in *Edinburgh*: That about *January*, in the Year 1743, they were all habile, and repute to be Persons of good Circumstances, and in good Credit: That the Deponent and *George Begbie*, dealt in Company together in Wheat and Flour, to the Extent of betwixt four and five hundred Pounds *Sterling*, in the Years 1745 and 1746; in the End of which Years, or in the Beginning of the 1747, the Deponent and *George Begbie* cleared and adjusted all these Accompts, as to their above Dealings. Depones, That the said *Archibald Punton* was owing the Deponent, either by a Bill or a Balance of an Accompt, about the Sum of one hundred Pounds *Sterling*; but at what Period of Time this was owing the Deponent cannot remember; and having Occasion for his Money, demanded it of *Punton*, who saying he could not pay him, altho' at that Time the Deponent did not suspect *Punton's* Circumstances, he, the Deponent, proposed to *Punton*, That he should borrow the Money, and he would join with him in the Security to be given for it, provided that *Thomas Hay* and *Robert Punton* gave the Deponent a Bond of Relief. That accordingly they borrowed the Money, and the Deponent got Payment of the Debt owing him by *Archibald*; upon the
above

above Plan. That after this, *Thomas Hay* his Affairs went into Disorder, and the Deponent used Diligence upon the said Bond of Relief, by raising Horning against the Obligants, and using Arrestments and Poindings against *Archibald Punton's* Effects, in Consequence of which, he recovered about twenty four Pounds *Sterling* of his Debt, all to Accompt of Annualrents due, which did not then clear the same all up: That the Sum itself is still owing, and *Robert Punton*, *Archibald's* Brother, pays the Annualrents; and there is only two Years owing thereof at this Time: That, at the Time of the Deponent's doing the Diligence, as above, against *Archibald Punton*, the said *George Begbie* continued carrying on his Business, and in unsuspected Circumstances; but how long, the Deponent does not remember. Depones, That it was twenty-four Bolls of Wheat that the Deponent poinded, and it was for Money owing *Archibald Punton* by Accompts for Bread, that he recovered upon his Arrestments; and that no other Creditors interfeired with the Deponent, as to these Arrestments used by him, or in the Poinding as above: *Causa scientie patet*. And this is Truth, as he shall answer to God. Two words in the End of the sixth Line, and the Word *seveenteen* in the preceding Page of this Deposition, being delete before Signing.

(Signed)

GAVIN WAUGH.

ROBERT LEITH.

Walter Forrest Merchant in *Edinburgh*, aged twenty and upwards; who being solemnly sworn, purged of partial Council, examined, and interrogate, depones, That he is acquainted with *George Begbie Baxter*, and has had occasion to have frequent Dealings with him in the Way of selling of Wheat, when he would have trusted him from ten to one Hundred Pounds Value; and that this happened

ed from *November 1752*, downwards, till *George Begbie* called a Meeting of his Creditors. That, prior to this Time, the Deponent looked upon him as a Man of good Circumstances, and had no Scruple of trusting him, as above: That the Deponent, when *Begbie* called his Creditors, as above, and which he knows was some Time in the Year 1753, or 1754, was Creditor to *Begbie* in a Sum from betwixt sixty to seventy Pounds *Sterling*, for which he used no Diligence, but went on in a joint Measure with the other Creditors, in recovering what they could of his Effects: *Causa scientie patet.* And this is Truth, as he shall answer to God.

(Signed)

WALTER FORREST.

ROBERT LEITH.

31st January 1758.

I N Presence of the said *Robert Leith*, as acting as afore-said, Compeared *Alexander Elliot Baxter* in *Edinburgh*; who being solemnly sworn, purged, examined, and interrogate, depones, That he knows *George Begbie Baxter* in *Edinburgh*, and has so for upwards of twenty Years; during which Period, down to the Year 1754, when *Begbie's* Affairs went into Disorder, the Deponent had Occasion frequently to sell the said *Begbie* considerable Quantities of Wheat, to the Extent of some Hundred Pounds *Sterling* at one Time: That *Begbie*, before his Affairs going into Disorder as above, was pretty regular in answering his Credit; and the Deponent always looked upon him till then, as sufficient, and in easy Circumstances: That the Deponent, being a Creditor of *Begbie's* when he broke, received his Proportion with his other Creditors, at the Dividend of his Effects: *Causa scientie patet.* And this is Truth as he shall answer to God.

(Signed)

ALEX. ELLIOT.

ROBERT LEITH.

